

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

MDL No. 1456

Master File No. 01-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO:  
BMS PROPOSED SETTLEMENT

**DECLARATION OF DONNA KENDALL**

I, Donna Kendall, pursuant to 28 U.S.C. § 1746, declare as follows:

1. My name is Donna Kendall and I am a resident of the State of Illinois. I have personal knowledge of the facts stated below and will testify in court to the same if called upon to do so.
2. I am a former member of the United Food and Commercial Workers Union and Employers Midwest Health Benefits Fund (“UFCW”).
3. I underwent chemotherapy in 2002 - 2003. As part of my treatment, I was prescribed and made payments for Rubex and Cytoxan, which are manufactured by Bristol-Myers Squibb (“BMS”).
4. I became involved in this lawsuit in October 2005. Over the next few months, I spent a considerable amount of time searching and collecting medical and financial records and assisting my attorneys in collecting all other necessary documents from my doctors and banks. This process required some time and effort since the records were in some cases more than a year old.

5. I was added as a Proposed Class 3 representative (TPPs and Consumers for AWP-Based Charges on Physician Administered Drugs Outside of Medicare) to the Third Amended Class Action Complaint on October 17, 2005.

6. I had my deposition taken on November 18, 2005, and spent some time preparing with my attorneys beforehand.

7. Throughout the case, I have regularly stayed in contact with my attorneys, receiving and reviewing status reports, answering any questions they had, and generally being available to assist with the lawsuit in any way possible.

8. I did not make contemporaneous records of my time as an attorney would. The following chart, however, reflects my best estimate of the time I spent on various activities throughout the case. It has been cross-checked for accuracy against the records kept by my attorneys.

<b>Activity</b>	<b>Hours</b>
Searching for and gathering documents in the home (proof of payments, cancelled checks, bank records, medical bills, etc.)	4 hours
Working with lawyers to contact doctor(s) and bank(s) to obtain documents and completing bank and medical records waivers	4 hours
Preparing for deposition	5 hours
Attending deposition	5 hours
Talking to attorneys or paralegals regarding the status of the case, responding to their inquiries or questions regarding my documents, and/or providing information to compile affidavits for use in the lawsuit	5 hours
Approximate Total Hours Expended	23 hours

9. I was administered and made payments for four different Track I drugs, which were manufactured by BMS (Rubex and Cytoxan), J&J (Procrit) and GSK (Kytril). This affidavit is in relation to a Settlement reached with BMS only, one of five Track I defendants. Because 2 of the 4 Track 1 drugs I was administered and made payments for were manufactured by BMS, the total number of hours I have spent (23) multiplied by 1/2 is my best estimate of my time attributed to the case against BMS. This totals 11.5 hours.

10. I understand from Co-Lead Counsel that the Court has indicated that a fair rate of reimbursement for time spent on this litigation by class representatives might be \$100.00 per hour. At the rate of \$100.00 per hour, the value of the estimated time I spent litigating the case against BMS (11.5 hours) is equal to \$1150.00

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct.

Dated: February 14, 2011

/s/ Donna Kendall

Donna Kendall

**CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE**

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I, Steve W. Berman, hereby certify that I am one of plaintiffs' attorneys and that, on February 14, 2011, I caused copies of the foregoing to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve.

/s/ Steve W. Berman  
Steve W. Berman